

AMENDED IN ASSEMBLY JUNE 21, 2004

AMENDED IN ASSEMBLY JUNE 7, 2004

AMENDED IN SENATE JANUARY 16, 2004

AMENDED IN SENATE JANUARY 7, 2004

SENATE BILL

No. 50

Introduced by Senator Sher

January 9, 2003

An act to amend Section 25214.10 of, and to add Sections 25214.10.1 and 25214.10.2 to, the Health and Safety Code, and to amend Sections 42463, 42464, 42465, 42465.1, 42465.2, 42465.3, 42475, 42475.2, 42476, 42476.5, 42477, 42478, and 42485 of, to add ~~Section 42464.4~~ *Sections 42464.4 and 42486* to, to repeal Section 42475.1 of, and to repeal and add Section 42464.2 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as amended, Sher. Solid waste: hazardous electronic waste.

(1) The Electronic Waste Recycling Act of 2003 makes it unlawful to sell, on or after July 1, 2004, a covered electronic device, as defined, in this state to a consumer, as defined, unless the California Integrated Waste Management Board (board) or the Department of Toxic Substances Control (department) determines that the manufacturer of that device is in compliance with the act. The act requires a retailer selling a covered electronic device in this state to collect a covered electronic waste recycling fee from the consumer, as specified. The act requires a manufacturer, on or before April 1, 2004, to inform the

retailer if a covered electronic device is subject to the waste recycling fee.

This bill *would* require the department to adopt regulations to identify electronic devices that are video display devices with a screen size of greater than 4 inches that the department has determined are presumed to be, when discarded, a hazardous waste pursuant to the hazardous waste control laws. The bill would require the department to adopt regulations for determining whether an electronic device, when discarded, is not a hazardous waste.

The bill would require a manufacturer to inform a retailer *and the State Board of Equalization* by August 1, 2004, and by April 1, annually thereafter whether a device is a covered electronic device for ~~purpose~~ *purposes* of the act and would require a covered electronic device identified in the regulations adopted by July 1, 2004, to be subject to the act on and after November 1, 2004. The bill would specify a procedure for a manufacturer to obtain the determination of the department that an electronic device is not subject to the act. The bill would authorize the department to adopt emergency regulations to implement these requirements.

(2) Existing law, the act, requires a retailer selling a covered electronic device in this state to collect an electronic waste recycling fee from the consumer on and after July 1, 2004, and to transmit the fee to the board in accordance with a schedule and procedures that the board is required to establish. The act requires the board, in collaboration with the department, on and after July 1, 2005, and at least once every 2 years thereafter, to review and adjust the electronic waste recycling fee, based on specified factors.

The bill would revise the definitions of the terms “*consumer*,” “covered electronic waste,” “person,” “retailer,” and “retail sale,” and would define the terms “discarded” and “recycling,” for purposes of the act.

The bill would require a retailer to collect the fee on and after November 1, 2004, instead of on and after July 1, 2004.

The bill would revise the procedures for reviewing and adjusting the covered electronic waste recycling fee.

The bill would repeal the authorization for the board to collect the ~~fees~~ *fee* and would require the board, on or before November 1, 2004, in consultation with the State Board of Equalization, to issue a specified notice and establish a call center for the purposes of responding to any



inquiries or complaints from retailers or from the public concerning payment or collection of the fee.

The bill would require the State Board of Equalization, on and after January 1, 2005, to collect the electronic waste recycling fees from retailers and to deposit those fees in the Electronic Waste ~~Recovering~~ *Recovery* and Recycling Account. The bill would require the covered electronic waste recycling fee to be due and payable quarterly on or before the last day of the month following each calendar quarter.

(3) The act requires each manufacturer of an electronic device who sells a covered electronic device in this state to submit an annual report to the board on the number of electronic devices sold by the manufacturer.

This bill would authorize a manufacturer to report only on those covered electronic devices that are not subject to Directive 2002/95/EC, as specified.

(4) Under existing law, the Electronic Waste Recovery and Recycling Account is created in the Integrated Waste Management Fund and the board and the department are authorized to expend the moneys deposited in the account, upon appropriation by the Legislature, for specified purposes.

~~This bill would continuously appropriate the money in the Electronic Waste Recovery and Recycling Account, which the bill would create in the State Treasury, to reimburse the State Board of Equalization for its costs associated with registration, collection, overpayment refunds, and auditing retailers, to make electronic waste recovery payments and electronic waste recycling payments, and to provide funding to the department to implement and enforce the hazardous waste control law, with regard to covered electronic devices. The bill would authorize the board and the department to expend the money in the account for the administration of the act only upon appropriation by the Legislature in the annual Budget Act.~~

The bill would ~~also~~ establish the Electronic Waste Penalty Subaccount in the account, would require all fines or penalties collected pursuant to the act to be deposited in the subaccount, and would authorize the expenditure of the funds in the subaccount only upon appropriation by the Legislature.

(5) Existing law requires the board, in collaboration with the department, to establish an electronic waste recovery payment schedule to cover the net cost of an authorized collector in operating a free and convenient system for collecting, consolidating and transporting

covered electronic wastes. Existing law also requires the board to establish an electronic waste recycling payment schedule to cover an e-waste recycler's net cost of receiving, processing, and recycling covered electronic waste.

This bill would allow the board to make electronic waste recycling payments or electronic waste recovery payments only for covered electronic waste that is processed in this state according to a cancellation procedure that the board would be required to adopt. ~~The bill would prohibit the board from providing any recycling payment for covered electronic waste exported out of state.~~ The bill would authorize the board to elect to pay an electronic waste recycling payment or electronic waste recovery payment ~~only~~ for covered electronic waste ~~that is recycled within the state~~, if the board declares that the state is a market participant in the business of the recycling of covered electronic waste, as specified, and the board pays the electronic waste recycling payment or electronic waste recovery payment to a manufacturer who takes back and cancels covered electronic waste from a consumer in this state, as specified.

The bill would authorize the board to make supplemental electronic waste recovery ~~payment~~ *payments* to an authorized collector who makes a specified demonstration to the board.

(6) Existing law requires a person who intends to export electronic waste to a foreign destination to comply with specified notification requirements and to demonstrate, among other things, that the handling of the exported electronic waste within the country of destination would meet certain standards adopted by the Organization for Economic ~~Co-operation~~ *Cooperation* and Development.

This bill would instead require a person who intends to export covered electronic waste, or a covered electronic device intended for reuse to a foreign country, or to another state for ultimate export to a foreign country, to comply with specified notification requirements and make specified demonstrations, including, a demonstration with regard to management of the waste in accordance with the decisions and implementing guidelines of the Organization for Economic ~~Co-operation~~ *Cooperation and Development*, notwithstanding that the country of destination is not a member of the Organization for Economic ~~Co-operation~~ *Cooperation and Development*.

(7) *Existing law prohibits the board and the department from implementing the act if specified circumstances occur.*



This bill would provide that the provisions of the act shall become inoperative on the date that one of those circumstances occurs, except for specified purposes.

(8) The bill would also make technical changes to the act.

~~(8)~~

(9) Because the act is incorporated into the hazardous waste control laws, a violation of which is a crime, the bill would impose a state-mandated local program by creating new crimes.

~~(9)~~

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~yes~~—no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25214.10 of the Health and Safety Code
2 is amended to read:

3 25214.10. (a) For purposes of this ~~section~~ chapter,
4 “electronic device” has the same meaning as a “covered
5 electronic device,” as defined in Section 42463 of the Public
6 Resources Code.

7 (b) The department shall adopt regulations, in accordance with
8 this section, that prohibit an electronic device from being sold or
9 offered for sale in this state if the electronic device is prohibited
10 from being sold or offered for sale in the European Union on and
11 after its date of manufacture, to the extent that Directive
12 2002/95/EC, adopted by the European Parliament and the Council
13 of the European Union on January 27, 2003, and as amended
14 thereafter by the Commission of European Communities,
15 prohibits that sale due to the presence of certain heavy metals.

16 (c) The regulations adopted pursuant to subdivision (b) shall
17 take effect January 1, 2007, or on or after the date Directive
18 2002/95/EC, adopted by the European Parliament and the Council
19 of the European Union on January 27, 2003, takes effect,
20 whichever date is later.



(d) The department shall exclude, from the regulations adopted pursuant to this section, the sale of an electronic device that contains a substance that is used to comply with the consumer, health, or safety requirements that are required by the Underwriters Laboratories, the federal government, or the state.

(e) In adopting regulations pursuant to this section, the department may not require the manufacture or sale of an electronic device that is different than, or otherwise not prohibited by, the European Union under Directive 2002/95/EC, adopted by the European Parliament and the Council of the European Union on January 27, 2003.

(f) (1) The department may not adopt any regulations pursuant to this section that impose any requirements or conditions that are in addition to, or more stringent than, the requirements and conditions expressly authorized by this section.

(2) In complying with this subdivision, the department shall use, in addition to any other information deemed relevant by the department, the published decisions of the Technical Adaptation Committee and European Union member states that interpret the requirements of Directive 2002/95/EC.

SEC. 2. Section 25214.10.1 is added to the Health and Safety Code, to read:

25214.10.1. (a) (1) For purposes of this section, “manufacturer” and “retailer” have the same meaning as defined in Section 42463 of the Public Resources Code.

(2) The department shall adopt regulations that identify electronic devices that are video display devices with a screen size of greater than four inches and that the department determines are presumed to be, when discarded, a hazardous waste pursuant to this chapter.

(3) The department shall adopt regulations for determining whether an ~~electric~~ *electronic* device, when discarded would not be a hazardous waste.

(b) Except as provided in subdivision (d), on or before August 1, 2004, and on or before every April 1 of each year thereafter, a manufacturer, shall inform *the State Board of Equalization and a retailer* that sells an electronic device manufactured by that ~~manufacturer~~ *manufacturer* whether that electronic device is listed in subparagraphs (A) to (C), inclusive, of paragraph (1) of subdivision (f) of Section 42463 of the Public Resources Code, or

is identified in the regulations adopted by the department pursuant to paragraph (2) of subdivision (a). The manufacturer shall inform *the State Board of Equalization and* the retailer that the electronic device is a covered electronic device and is subject to a fee in accordance with subdivision (c).

(c) (1) Except as provided in subdivision (d), each covered electronic device that is listed in paragraph (1) of subdivision (f) of Section 42463 of the Public Resources Code, or that is identified in the regulations adopted, on or before July 1, 2004, by the department, pursuant to paragraph (2) of subdivision (a), shall, on and after November 1, 2004, be subject to Chapter 8.5 (commencing with Section 42460) of Part 3 of Division 30 of the Public Resources Code, including the fee imposed pursuant to Section 42464 of the Public Resources Code.

(2) Except as provided in subdivision (d), each covered electronic device identified in the regulations adopted, on or after July 2, 2004, by the department, pursuant to paragraph (2) of subdivision (a), shall, on and after the July 1 of the subsequent year in which the device is first identified in the regulations, be subject to Chapter 8.5 (commencing with Section 42460) of Part 3 of Division 30 of the Public Resources Code, including the fee imposed pursuant to Section 42464 of the Public Resources Code.

(d) The manufacturer of an electronic device that is listed in paragraph (1) of subdivision (f) of Section 42463 of the Public Resources Code, or is identified in the regulations adopted by the department pursuant to paragraph (2) of subdivision (a), may apply to the department for a determination that the device is nonhazardous, in accordance with procedures set forth in regulations adopted by the department pursuant to paragraph (3) of subdivision (a). If the department determines that the electronic device is nonhazardous, the electronic device is not subject to Chapter 8.5 (commencing with Section 42460) of Part 3 of Division 30 of the Public Resources Code on the first day of the quarter that begins at least 30 days after the last date ~~of~~ *on which* the following required actions have occurred:

(1) The date when the department provides a written statement to the manufacturer that the electronic device is nonhazardous.

(2) The date when the manufacturer notifies all retailers selling the electronic device of the department's determination.



1 (3) *The date on which the department notifies the State Board*
2 *of Equalization in writing of its determination.*

3 (4) *The date on which the department posts its determination*
4 *on its Web site.*

5 SEC. 3. Section 25214.10.2 is added to the Health and Safety
6 Code, to read:

7 25214.10.2. A regulation adopted pursuant to this article may
8 be adopted as an emergency regulation in accordance with Chapter
9 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
10 Title 2 of the Government Code, and for the purposes of that
11 chapter, including Section 11349.6 of the Government Code, the
12 adoption of these regulations is an emergency and shall be
13 considered by the Office of Administrative Law as necessary for
14 the immediate preservation of the public peace, health, and safety,
15 and general welfare. Notwithstanding Chapter 3.5 (commencing
16 with Section 11340) of Part 1 of Division 3 of Title 2 of the
17 Government Code. ~~An~~, an emergency regulation adopted by the
18 department pursuant to this section shall be filed with, but not be
19 repealed by, the Office of Administrative Law and shall remain in
20 effect for a period of two years or until revised by the department,
21 whichever occurs sooner.

22 SEC. 4. Section 42463 of the Public Resources Code is
23 amended to read:

24 42463. For the purposes of this chapter, the following terms
25 have the following meanings, unless the context clearly requires
26 otherwise:

27 (a) “Account” means the Electronic Waste Recovery and
28 Recycling Account created in the Integrated Waste Management
29 Fund under Section 42476.

30 (b) “Authorized collector” means any of the following:

31 (1) A city, county, or district that collects covered electronic
32 devices.

33 (2) A person or entity that is required or authorized by a city,
34 county, or district to collect covered electronic devices pursuant to
35 the terms of a contract, license, permit, or other written
36 authorization.

37 (3) A nonprofit organization that collects or accepts covered
38 electronic devices.

39 (4) A manufacturer or agent of the manufacturer that collects,
40 consolidates, and transports covered electronic devices for



1 recycling from consumers, businesses, institutions, and other
2 generators.

3 (5) An entity that collects, handles, consolidates, and transports
4 covered electronic devices and has filed a notification with the
5 department pursuant to Article 7 (commencing with Section
6 66273.80) of Chapter 23 of Division 4.5 of Title 22 of the
7 California Code of Regulations.

8 (c) “Board” means the California Integrated Waste
9 Management Board.

10 (d) (1) “Consumer” means a person who purchases a new or
11 refurbished covered electronic device in a transaction that is a
12 retail sale *or in a transaction to which a use tax applies pursuant*
13 *to Part 1 (commencing with Section 6001) of Division 2 of the*
14 *Revenue and Taxation Code.*

15 (2) ~~(A)~~ “Consumer” does not include a manufacturer who
16 purchases specialty or medical electronic equipment that is a
17 covered electronic device.

18 ~~(B) For purposes of this paragraph, “medical electronic~~
19 ~~equipment” includes, but is not limited to, radiotherapy~~
20 ~~equipment, cardiology equipment, dialysis equipment, pulmonary~~
21 ~~ventilators, nuclear medicine equipment, laboratory equipment~~
22 ~~for in vitro diagnosis, analyzers and freezers.~~

23 ~~(C) For purposes of this paragraph, “specialty electronic~~
24 ~~equipment” includes, but is not limited to, smoke detectors,~~
25 ~~heating regulators, and thermostats.~~

26 (e) “Department” means the Department of Toxic Substances
27 Control.

28 (f) (1) “Covered electronic device” means a cathode ray tube,
29 cathode ray tube device, flat panel screen, or any other similar
30 video display device with a screen size that is greater than four
31 inches in size measured diagonally and which the department
32 determines, when discarded or disposed, would be a hazardous
33 waste pursuant to Chapter 6.5 (commencing with Section 25100)
34 of Division 20 of the Health and Safety Code.

35 (2) If the manufacturer of an electronic device, obtains the
36 determination of the department that the electronic device is
37 nonhazardous, in accordance with subdivision (d) of Section
38 25214.10.1 of the Health and Safety Code, the electronic device
39 is not a covered electronic device for purposes of this chapter on
40 the first day of the quarter that begins at least 30 days after the last

1 date of the required actions specified in paragraphs (1) and (2) of
2 subdivision (d) of Section 25214.10.1 of the Health and Safety
3 Code.

4 (3) “Covered electronic device” does not include any of the
5 following:

6 (A) A video display device that is a part of a motor vehicle, as
7 defined in Section 415 of the Vehicle Code, or any component part
8 of a motor vehicle assembled by, or for, a vehicle manufacturer or
9 franchised dealer, including replacement parts for use in a motor
10 vehicle.

11 (B) A video display device that is contained within, or a part of
12 a piece of industrial, commercial, or medical equipment, including
13 monitoring or control equipment, and that is not separate from that
14 equipment.

15 (C) *A video display device that is contained within a clothes*
16 *washer, clothes dryer, refrigerator, refrigerator and freezer,*
17 *microwave oven, conventional oven or range, dishwasher, room*
18 *air-conditioner, dehumidifier, or air purifier, that is prohibited*
19 *from being disposed at a solid waste landfill.*

20 (g) “Covered electronic waste” or “covered e-waste” means
21 a covered electronic device that is discarded.

22 (h) “Covered electronic waste recycling fee” or “covered
23 e-waste recycling fee” means the fee imposed pursuant to Article
24 3 (commencing with Section 42464).

25 (i) “Covered electronic waste recycler” or “covered e-waste
26 recycler” means any of the following:

27 (1) A person who engages in the manual or mechanical
28 separation of covered electronic devices to recover components
29 and commodities contained therein for the purpose of reuse or
30 recycling.

31 (2) A person who changes the physical or chemical
32 composition of a covered electronic device, in accordance with the
33 requirements of Chapter 6.5 (commencing with Section 25100) of
34 Division 20 of the Health and Safety Code and the regulations
35 adopted pursuant to that chapter, by deconstructing, size
36 reduction, crushing, cutting, sawing, compacting, shredding, or
37 refining for purposes of segregating components, for purposes of
38 recovering or recycling those components, and who arranges for
39 the transport of those components to an end user.



(3) A manufacturer who meets any conditions established by this chapter and Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code for the collection or recycling of covered electronic waste.

(j) “Discarded” has the same meaning as defined in subdivision (b) of Section 25124 of the Health and Safety Code.

(k) “Electronic waste recovery payment” means an amount established and paid by the board pursuant to Section 42477.

(l) “Electronic waste recycling payment” means an amount established and paid by the board pursuant to Section 42478.

(m) “Hazardous material” has the same meaning as defined in Section 25501 of the Health and Safety Code.

(n) “Manufacturer” means any of the following:

(1) A person who manufactures a covered electronic device sold in this state.

(2) A person who sells a covered electronic device in this state under a person’s brand name.

(o) “Person” means an individual, trust firm, joint stock company, business concern, *and* corporation, including, but not limited to, a government corporation, partnership, limited liability company, and association. Notwithstanding Section 40170, “person” also includes a city, county, city and county, district, commission, the state or a department, agency, or political subdivision thereof, an interstate body, and the United States and its agencies and instrumentalities to the extent permitted by law.

(p) “Recycling” has the same meaning as defined in subdivision (a) of Section 25121.1 of the Health and Safety Code.

(q) “Retailer” means a person who makes a retail sale of a new or refurbished covered electronic device ~~in the state directly to a consumer through any means, including, but not limited to, a transaction conducted through a sales outlet, catalog, or the Internet or any other similar electronic means.~~ “Retailer” also. “Retailer” includes a manufacturer of a covered electronic device who sells that covered electronic device directly to a consumer through any means, including, but not limited to, a transaction conducted through a sales outlet, catalog, or the Internet, or any other similar electronic means.

(r) “Retail sale” has the same meaning as defined under Section 6007 of the Revenue and Taxation Code.

SEC. 5. Section 42464 of the Public Resources Code is amended to read:

42464. (a) ~~Except as specified in subdivision (f), on and after July~~ *On and after November 1, 2004*, a covered electronic waste recycling fee is hereby imposed upon the first sale in the state of a covered electronic device to a consumer by a retailer.

(b) A retailer that sells a covered electronic device to a consumer shall collect the fee imposed under subdivision (a) for each covered electronic device sold by the retailer in the following amounts:

(1) Six dollars (\$6) for each covered electronic device with a screen size of less than 15 inches measured diagonally.

(2) Eight dollars (\$8) for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.

(3) Ten dollars (\$10) for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

~~(b)~~

(c) A retailer may retain 3 percent of the covered electronic waste recycling fee as reimbursement for all costs associated with ~~the collection of the fee and shall transmit the fee payments in accordance with Section 42464.4.~~

~~(c)~~ *the collection of the fee and shall transmit the remainder of the fee to the state pursuant to Section 42464.4.*

(d) *If a retailer elects to pay the covered electronic waste recycling fee on behalf of the consumer, the retailer shall provide an express statement to that effect on the invoice given to the consumer at the time of sale. If a retailer pays the covered electronic waste recycling fee on behalf of the consumer, the fee is a debt owed by the retailer to the state, and the consumer is not liable for the fee.*

(e) *The retailer shall separately state the covered electronic waste recycling fee on the invoice given to the consumer at the time of sale.*

(f) On or before May 1, 2005, and, thereafter, no more frequently than annually, and no less frequently than biennially, the board, in collaboration with the department, shall review, at a public hearing, the covered electronic waste recycling fee and shall make adjustments to the fee to ensure that there are sufficient revenues in the account to fund the covered electronic waste

recycling program established pursuant to this chapter. Adjustments to the fee that are made on or before May 1 of the current calendar year shall apply for the 12-month period of July 1 of the current calendar year to June 30 of the next succeeding calendar year. The board shall base an adjustment of the covered electronic waste recycling fee on both of the following factors:

(1) The sufficiency, and a surplus, of revenues in the account to fund the collection, consolidation, and recycling of covered electronic waste that is projected to be recycled in the state.

(2) The sufficiency of revenues in the account for the board and the department to administer, enforce, and promote the program established pursuant to this chapter, plus a prudent reserve not to exceed 5 percent of the amount in the account.

~~(d)~~

(g) (1) The board may ~~reduce or~~ eliminate the covered electronic waste recycling fee on an electronic device if the manufacturer of that electronic device demonstrates to the satisfaction of the department that the device is not hazardous pursuant to subdivision (d) of Section 25214.10.1 of the Health and Safety Code.

(2) A determination that a covered electronic device is not hazardous does not require the board to refund the electronic waste recycling fees collected prior to that determination, and does not relieve a retailer from collecting and paying an electronic waste recycling fee on a covered electronic device sold prior to that determination.

SEC. 6. Section 42464.2 of the Public Resources Code is repealed.

SEC. 7. Section 42464.2 is added to the Public Resources Code, to read:

42464.2. (a) The covered electronic waste recycling fee imposed pursuant to this chapter shall be collected in the following manner:

(1) On or before November 1, 2004, in consultation with the State Board of Equalization, the board shall do all of the following:

(A) Issue a notice to each retailer who sells a covered electronic device that describes the retailer's obligations under this chapter to register with, and collect and remit electronic waste recycling fees to, the State Board of Equalization for the purposes of complying with ~~the~~ this chapter. The notice shall include all

1 information the State Board of Equalization deems necessary to
2 ensure efficient and enforceable collection of electronic waste
3 recycling fees consistent with this section.

4 (B) Establish a call center for the purposes of responding to any
5 inquiries or complaints from retailers or from the public
6 concerning payment or collection of the electronic waste recycling
7 fee.

8 (2) On and after January 1, 2005, the State Board of
9 Equalization shall collect electronic waste recycling fees from
10 retailers and deposit those fees in the account. The State Board of
11 Equalization may collect the fees pursuant to the Fee Collection
12 Procedures Law (Part 30 (commencing with Section 55001) of
13 Division 2 of the Revenue and Taxation ~~Code~~ Code), except that
14 for purposes of the Fee Collection Procedures Law, the retailer
15 shall be deemed to be the feepayer, as defined in Section 55004 of
16 the Revenue and Taxation Code.

17 (b) The board and the State Board of Equalization shall share
18 data and expertise to ensure the timely and efficient
19 implementation of this section.

20 SEC. 8. Section 42464.4 is added to the Public Resources
21 Code, to read:

22 42464.4. (a) The covered electronic waste recycling fee shall
23 be due and payable quarterly on or before the last day of the month
24 following each calendar quarter. The payments shall be
25 accompanied by a return in the form as prescribed by the State
26 Board of Equalization or that person authorized to collect,
27 including, but not limited to, electronic media.

28 (b) The State Board of Equalization may require the payment
29 of the fee and the filing of returns for other than quarterly periods.

30 SEC. 9. Section 42465 of the Public Resources Code is
31 amended to read:

32 42465. On and after November 1, 2004, or as specified
33 otherwise in Section 25214.10.1 of the Health and Safety Code, it
34 shall be unlawful to sell a covered electronic device to a consumer
35 in this state unless the board or department determines that the
36 manufacturer of that covered electronic device demonstrates
37 compliance with this chapter.

38 SEC. 10. Section 42465.1 of the Public Resources Code is
39 amended to read:

42465.1. On and after January 1, 2005, or as specified otherwise in Section 25214.10.1 of the Health and Safety Code, a person may not sell or offer for sale in this state a covered electronic device unless the device is labeled with the name of the manufacturer or the manufacturer's brand label, so that it is readily visible.

SEC. 11. Section 42465.2 of the Public Resources Code is amended to read:

42465.2. (a) On or before July 1, 2005, or as specified otherwise in Section 25214.10.1 of the Health and Safety Code, and at least once annually thereafter as determined by the board, each manufacturer of a covered electronic device sold in this state shall do all of the following:

(1) Submit to the board a report that includes all of the following information:

(A) An estimate of the number of covered electronic devices sold by the manufacturer in the state during the previous year.

(B) A baseline or set of baselines that show the total estimated amounts of mercury, cadmium, lead, hexavalent chromium, PBDE's to the extent the department considers those substances to be a hazardous material, and PBB's used in covered electronic devices manufactured by the manufacturer in that year and the reduction in the use of those hazardous materials from the previous year. The department may specify a minimum threshold for specified materials requiring reporting.

(C) A baseline or set of baselines that show the total estimated amount of ~~recycled~~ *recyclable* materials contained in covered electronic devices sold by the manufacturer in that year and the increase in the use of those recyclable materials from the previous year.

(D) A baseline or a set of baselines that describe any efforts to design covered electronic devices for recycling and goals and plans for further increasing design for recycling.

~~(E) A list of Internet and catalog retailers that sold, or offered for sale, the covered electronic devices during the previous year.~~

(2) Make information available to consumers, that describes where and how to return, recycle, and dispose of the covered electronic device and opportunities and locations for the collection or return of the device, through the use of a toll-free telephone number, Internet Web site, information labeled on the device,

1 information included in the packaging, or information
2 accompanying the sale of covered electronic device.

3 (b) For the purposes of complying with paragraph (1) of
4 subdivision (a), a manufacturer may submit a report to the board
5 that includes only covered electronic devices that are not subject
6 to Directive 2002/95/EC adopted by the European Parliament and
7 the Council of the European Union on January 27, 2003, and any
8 amendments made to that directive, if both of the following
9 conditions are met:

10 (1) The manufacturer submits written verification to the
11 department that demonstrates, to the satisfaction of the
12 department, that the manufacturer is in compliance with Directive
13 2002/95/EC, and any amendments to that directive, for those
14 covered electronic devices for which it is not submitting a report
15 to the board pursuant to this subdivision.

16 (2) The department certifies that the manufacturer is in
17 compliance with Directive 2002/95/EC, and any amendments to
18 that directive, for those covered electronic devices for which the
19 manufacturer is not submitting a report to the board pursuant to
20 this subdivision.

21 (c) Any information submitted to the board pursuant to
22 subdivision (a) that is proprietary in nature or a trade secret shall
23 be subject to protection under state laws and regulations governing
24 that information.

25 SEC. 12. Section 42465.3 of the Public Resources Code is
26 amended to read:

27 42465.3. On or before August 1, 2004, and on or before every
28 April 1 thereafter, a manufacturer shall inform the retailer if a
29 covered electronic device sold by that manufacturer is subject to
30 the covered electronic waste recycling fee established pursuant to
31 this chapter.

32 SEC. 13. Section 42475 of the Public Resources Code is
33 amended to read:

34 42475. (a) The board shall administer and enforce this
35 chapter in consultation with the department.

36 (b) The board and the department may adopt regulations
37 pursuant to Chapter 3.5 (commencing with Section 11340) of Part
38 1 of Division 3 of Title 2 of the Government Code that are
39 necessary to implement this chapter, and any other regulations that
40 the board and the department determines are necessary to



1 implement the provisions of this chapter in a manner that is
2 enforceable.

3 (c) The board shall adopt regulations pursuant to Chapter 3.5
4 (commencing with Section 11340) of Part 1 of Division 3 of Title
5 2 of the Government Code that ensure the protection of any
6 proprietary information submitted to the board by a manufacturer
7 of covered electronic devices.

8 (d) The board and the department may prepare, publish, or
9 issue any materials that the board or department determines to be
10 necessary for the dissemination of information concerning the
11 activities of the board or department under this chapter.

12 (e) In carrying out this chapter, the board and the department
13 may solicit and use any and all expertise available in other state
14 agencies, including, but not limited to, the department, the
15 Department of Conservation, and the State Board of Equalization.

16 SEC. 14. Section 42475.1 of the Public Resources Code is
17 repealed.

18 SEC. 15. Section 42475.2 of the Public Resources Code is
19 amended to read:

20 42475.2. (a) The board and the department may adopt
21 regulations to implement and enforce this chapter as emergency
22 regulations.

23 (b) The emergency regulations adopted pursuant to this chapter
24 shall be adopted in accordance with Chapter 3.5 (commencing
25 with Section 11340) of Part 1 of Division 3 of Title 2 of the
26 Government Code, and for the purposes of that chapter, including
27 Section 11349.6 of the Government Code, the adoption of these
28 regulations is an emergency and shall be considered by the Office
29 of Administrative Law as necessary for the immediate
30 preservation of the public peace, health, safety, and general
31 welfare. Notwithstanding Chapter 3.5 (commencing with Section
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
33 any emergency regulations adopted by the board or the department
34 pursuant to this section shall be filed with, but not be repealed by,
35 the Office of Administrative Law and shall remain in effect for a
36 period of two years or until revised by the department or the board,
37 whichever occurs sooner.

38 SEC. 16. Section 42476 of the Public Resources Code is
39 amended to read:

~~42476. (a) The Electronic Waste Recovery and Recycling Account is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the funds in the account are hereby continuously appropriated without regard to fiscal year, for the following purposes:~~

~~(1) To reimburse the State Board of Equalization for its costs associated with registration, collection, overpayment refunds, and auditing retailers in connection with the covered electronic waste recycling fee imposed pursuant to Article 3.~~

~~(2) To make electronic waste recovery payments to an authorized collector of covered electronic waste pursuant to Section 42479.~~

~~(3) To make electronic waste recycling payments to covered electronic waste recyclers of covered electronic waste pursuant to Section 42479.~~

~~(4) To provide funding to the department to implement and enforce Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, as that chapter relates to covered electronic devices, and any regulations adopted by the department pursuant to that chapter.~~

~~(5) To establish the public information program specified in subdivision (d).~~

~~(b) (1) The board and the department may expend the money in the account for the administration of this article only upon appropriation by the Legislature in the annual Budget Act.~~

~~(2)~~

42476. (a) The board and the department shall deposit all fees or fines collected under this chapter into the Electronic Waste Recovery and Recycling Account, which is hereby created in the Integrated Waste Management Fund. The funds in the Electronic Waste Recovery and Recycling Account may be expended by the board and department, upon appropriation by the Legislature, for the following purposes:

(1) To make electronic waste recovery payments to an authorized collector of covered electronic waste pursuant to Section 42479.

(2) To make electronic waste recycling payments to covered electronic waste recyclers of covered electronic waste pursuant to Section 42479.

(3) *To provide for costs of the board and the department to administer this chapter.*

(4) *To provide funding to the department to implement and enforce Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, as that chapter relates to covered electronic devices, and any regulations adopted by the department pursuant to that chapter.*

(b) Any fines or penalties collected pursuant to this chapter shall be deposited in the Electronic Waste Penalty Subaccount, which is hereby established in the account. The funds in the Electronic Waste Penalty Subaccount may be expended by the board or department only upon appropriation by the Legislature.

(c) Notwithstanding Section 16475 of the Government Code, any interest earned upon funds in the Electronic Waste Recovery and Recycling Account shall be deposited in that account for expenditure pursuant to this chapter.

(d) Not more than 1 percent of the funds annually deposited in the Electronic Waste Recovery and Recycling Account shall be expended for the purposes of establishing the public information program to educate the public in the hazards of improper covered electronic device storage and disposal and on the opportunities to recycle covered electronic devices.

(e) The board may not make a *an* electronic waste recycling payment or electronic waste recovery payment for covered electronic waste unless that waste is handled in compliance with all statutes and regulations governing the management, including the export, of that waste.

(f) (1) The board shall adopt regulations specifying the cancellation methods for the recovery, processing, or recycling of covered electronic waste.

(2) The board may make electronic waste recycling payments or electronic waste recovery payments only if the covered electronic waste is processed in this state according to the cancellation method authorized by the board.

~~(3) The board may not pay an electronic waste recycling payment for covered electronic waste that is exported out of state.~~

(g) The board may elect to pay an electronic waste recycling payment or electronic waste recovery payment ~~only for covered electronic waste that is recycled within the state~~ *for covered*

1 *electronic waste*, subject to all of the following terms and
2 conditions:

3 (1) The board declares that the state is a market participant in
4 the business of the recycling of covered electronic waste for all of
5 the following reasons-:

6 (A) The fee is collected from the state's consumers for covered
7 electronic devices sold for use in the state.

8 (B) The purpose of the fee and subsequent payments is to
9 prevent damage to the public health and the environment from
10 waste generated in the state.

11 (C) The recycling system funded by the fee ensures that
12 economically viable and sustainable markets are developed and
13 supported for recovered materials and components in order to
14 conserve resources and maximize business and employment
15 opportunities within the state.

16 (2) The board pays the electronic waste recycling payment or
17 electronic waste recovery payment to a manufacturer who takes
18 back and cancels covered electronic waste from a consumer in this
19 state, in accordance with the requirements of Section 42479. The
20 amount of the electronic waste recycling payment paid by the
21 board shall equal the value of the covered electronic waste
22 recycling fee for that device. To qualify for payment, the
23 manufacturer shall demonstrate to the board that the covered
24 electronic device for which payment is claimed was used in the
25 state.

26 SEC. 17. Section 42476.5 of the Public Resources Code is
27 amended to read:

28 42476.5. A person who intends to export covered electronic
29 waste, or a covered electronic device intended for ~~reuse~~ *recycling*
30 *or disposal*, to a foreign country, or to another state for ultimate
31 export to a foreign country, shall do all of the following at least 60
32 days prior to export:

33 (a) Notify the department of the destination, disposition,
34 contents, and volume of the waste, or device intended for ~~reuse~~
35 *recycling or disposal* to be exported, and include with the
36 notification the demonstrations required pursuant to subdivisions
37 (b) to (e), inclusive.

38 (b) Demonstrate that the waste, or device is being exported for
39 the purposes of recycling.



(c) Demonstrate that the importation of the waste or device is not prohibited by an applicable law in the state or country of destination and that any import will be conducted in accordance with all applicable laws. As part of this demonstration, required import and operating licenses, permits, or other appropriate authorization documents shall be forwarded to the department.

(d) Demonstrate that the exportation of the waste, or device is conducted in accordance with applicable United States or applicable international law.

(e) (1) Demonstrate that the waste or device will be managed within the country of destination only at facilities whose operations meet or exceed the binding decisions and implementing guidelines of the Organization for Economic ~~Co-operation~~ *Cooperation* and Development for the environmentally sound management of the waste or device being exported.

(2) The demonstration required by this subdivision applies to any country of destination, notwithstanding that the country is not a member of the Organization for Economic ~~Co-operation~~ *Cooperation* and Development.

SEC. 18. Section 42477 of the Public Resources Code is amended to read:

42477. On July 1, 2004, or as specified otherwise in Section 25214.10.1 of the Health and Safety Code, and on July 1 every two years thereafter, the board in collaboration with the department shall establish an electronic waste recovery payment schedule for covered electronic wastes generated in this state to cover the average net cost for an authorized collector to operate a free and convenient system for collecting, consolidating and transporting covered electronic wastes generated in this state. The board shall make the electronic waste recovery payments either directly to an authorized collector or to a covered electronic waste recycler for payment to an authorized collector pursuant to this article. The board may make supplemental electronic waste recovery payments to an authorized collector who demonstrates to the satisfaction of the board that the authorized collector's costs for collection, consolidation, and transportation of covered electronic waste exceed the payment allowed pursuant to this section, *and that the authorized collector has taken reasonable steps to ensure that its collection, consolidation, and transportation of covered*

1 *electronic waste is conducted in an efficient and cost-effective*
2 *manner.*

3 SEC. 19. Section 42478 of the Public Resources Code is
4 amended to read:

5 42478. On July 1, 2004, or as specified otherwise in Section
6 25214.10.1 of the Health and Safety Code, and on July 1 every two
7 years thereafter, the board, in collaboration with the department,
8 shall establish a covered electronic waste recycling payment
9 schedule for covered electronic wastes generated in this state to
10 cover the average net cost for an electronic waste recycler to
11 receive, process, and recycle a covered electronic device received
12 from an authorized collector. The board shall make the electronic
13 waste recycling payments to a covered electronic waste recycler
14 pursuant to this article.

15 SEC. 20. Section 42485 of the Public Resources Code is
16 amended to read:

17 42485. The board and the department shall not implement this
18 chapter if either of the following occur:

19 (a) A federal law, or a combination of federal laws, takes effect
20 and does all of the following:

21 (1) Establishes a program for the collection, recycling, and
22 proper disposal of covered electronic waste that is applicable to all
23 covered electronic devices sold in the United States.

24 (2) Provides revenues to the state to support the collection,
25 recycling, and proper disposal of covered electronic waste, in an
26 amount that is equal to, or greater than, the revenues that would be
27 generated by the fee imposed under Section 42464.

28 (3) Requires covered electronic device manufacturers,
29 retailers, handlers, processors, and recyclers to dispose of those
30 devices in a manner that is in compliance with all applicable
31 federal, state, and local laws, and prohibits the devices from being
32 exported for disposal in a manner that poses a significant risk to
33 the public health or the environment.

34 (b) A trial court issues a judgment, which is not appealed, or an
35 appellate court issues an order affirming a judgment of a trial
36 court, holding that out-of-state manufacturers or retailers, or both,
37 may not be required to collect the fee authorized by this chapter.
38 The out-of-state manufacturers or retailers, or both, shall continue
39 to collect the fee during the appellate process.



1 SEC. 21. *Section 42486 is added to the Public Resources*
2 *Code, to read:*

3 *42486. (a) Except as provided in subdivision (b), the*
4 *provisions of this chapter shall become inoperative on the date that*
5 *either of the events described in subdivision (a) or (b) of Section*
6 *42485 occurs, and if both occur, the earlier date.*

7 *(b) On the date specified in subdivision (a), the provisions of*
8 *this chapter shall remain operative only for the collection of fees,*
9 *the liability for which accrued prior to that date, making refunds,*
10 *effecting credits, the disposition of moneys collected, and*
11 *commencing an action or proceeding pursuant to this chapter.*

12 SEC. 22. No reimbursement is required by this act pursuant
13 to Section 6 of Article XIII B of the California Constitution
14 because the only costs that may be incurred by a local agency or
15 school district will be incurred because this act creates a new crime
16 or infraction, eliminates a crime or infraction, or changes the
17 penalty for a crime or infraction, within the meaning of Section
18 17556 of the Government Code, or changes the definition of a
19 crime within the meaning of Section 6 of Article XIII B of the
20 California Constitution.

